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JUL 9 2004

GROUP 3600

3628
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30

TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application No.	09/820,574
		Filing Date	March 28, 2001
		First Named Inventor	Reed Maltzman
		Art Unit	3628
		Examiner Name	Graham, Clement B.
Total Number of Pages in This Submission	7	Attorney Docket Number	3801P040

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">References and Letter to Examiner</div>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Mark R. Vatuone, Reg. No. 53,719 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	<i>Mark R. Vatuone</i>
Date	6/23/04

CERTIFICATE OF MAILING/TRANSMISSION			
I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.			
Typed or printed name	Patricia A. Balero		
Signature	<i>Patricia A. Balero</i>	Date	6/23/04



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**FEE TRANSMITTAL
for FY 2004**

Effective 01/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27.**TOTAL AMOUNT OF PAYMENT** (\$) 130.00

Complete if Known

Application Number	09/820,574
Filing Date	March 28, 2001
First Named Inventor	Reed Maltzman
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Art Unit	3628
Attorney Docket No.	3801P040

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None
☒ Deposit AccountDeposit
Account
Number

02-2666

Deposit
Account
Name

Blakely, Sokoloff, Taylor & Zafman LLP

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments
☒ Charge any additional fee(s) or underpayment of fees as required under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$)

2. EXTRA CLAIM FEES

Total Claims - 20** = X =
Independent Claims 3 = X =
Multiple Dependent

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple Dependent claim, if not paid	
1204	86	2204	43	**Reissue independent claims over original patent	
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2)

(\$)

**or number previously paid, if greater. For Reissues, see below

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

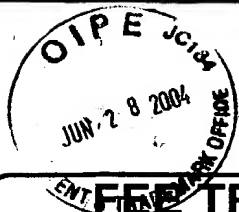
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Other fee (specify) _____					
*Reduced by Basic Filing Fee Paid					
SUBTOTAL (3)					130.00

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Mark R. Vatuone	Registration No. (Attorney/Agent)	53,719	Telephone	(408) 947-8200
Signature	<i>Mark R. Vatuone</i>	Date	6/23/04		

Based on PTO/SB/17 (10-03) as modified by Blakely, Sokoloff, Taylor & Zafman (wlr) 02/10/2004.
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GROUP 3600

ENT. FEE TRANSMITTAL for FY 2004 <small>Effective 01/01/2004. Patent fees are subject to annual revision.</small>		Complete if Known	
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1501	1,330	2501	665	Utility issue fee (or reissue)																																																																																																																																																																																															
1502	480	2502	240	Design issue fee																																																																																																																																																																																															
1503	640	2503	320	Plant issue fee																																																																																																																																																																																															
1460	130	2460	130	Petitions to the Commissioner	130.00																																																																																																																																																																																														
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1806	180	1806	180	Submission of Information Disclosure Stmt																																																																																																																																																																																															
8021	40	8021	40	Recording each patent assignment per property (times number of properties)																																																																																																																																																																																															
1809	770	1809	385	Filing a submission after final rejection (37 CFR § 1.129(a))																																																																																																																																																																																															
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))																																																																																																																																																																																															
1801	770	2801	385	Request for Continued Examination (RCE)																																																																																																																																																																																															
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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Mark R. Vatuone	Registration No. (Attorney/Agent)	53,719
Signature	<i>Mark R. Vatuone</i>	Telephone	(408) 947-8200
		Date	6/23/04



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June 22, 2004

Via Express Mail and Facsimile

John J. Love:
Technology Center (TC)
Director 3600
2451 Crystal Drive
Crystal Park 5 – Room 7A03
Arlington, VA 22202

RECEIVED

JUL 9 2004

GROUP 3600

Re: U.S Patent Application Serial No. 09/820,574
METHOD AND SYSTEM TO ENABLE A FIXED PRICE PURCHASE WITHIN AN
ONLINE AUCTION ENVIRONMENT
Filed: March 28, 2001
Attorney Docket No.: 3801P040

Dear Examiner Love:

In response to the OG Notice of April 27, 2004 regarding the Pilot Program to permit a Pre-First Office Action Interview for Applications, I enclose herewith a Petition to Make Special for the above-mentioned case and request a pre-first Office Action interview.

If you have any questions please call me at 408 947-8200.

Very truly yours,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Mark R. Vatuone
mark_vatuone@bstz.com



RECEIVED

JUL 9 2004

GROUP 3600

Patent

Attorney's Docket No.: 3801P040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re of Application of:

REED MALTZMAN

Application No.: 09/820,574

Filing Date: March 28, 2001

For: METHOD AND SYSTEM TO ENABLE A
FIXED PRICE PURCHASE WITHIN AN
ONLINE AUCTION ENVIRONMENT

Examiner: Graham, Clement B.

Art Group: 3628

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on June 23, 2004
Date of Deposit

Patricia A. Balero
Name of Person Mailing Correspondence

[Signature] 6/23/04
Signature Date

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL

(A) FEE

Applicant hereby encloses a check in the amount of \$ 130.00 for the petition fee required by 37 C.F.R. § 1.17(i). Furthermore, the Commissioner is hereby authorized to charge payment of any fee due under 37 C.F.R. § 1.16 and § 1.17 associated with this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 or credit any overpayment to Deposit Account No. 02-2666.

(B) CLAIMS

All claims in this application are directed to a single invention.

If the Office determines that all the claims presented are not obviously directed to a single invention, Applicants will make an election without traverse as a prerequisite to the grant of special status.

(C) SEARCH

A search was made by:

- ☐ the inventor
- ☐ attorney or agent
- ☐ professional searcher
- ☐ foreign patent office
- ☒ US as ISA for PCT/US01/31012

The field of search included:

- ☒ classes/subclasses: IPC(7): G06F 17/60; US CL: 705/37
- ☐ publications
- ☐ foreign patents

(D) COPIES OF REFERENCES

Attached are two documents deemed by the USPTO, as ISA, to be of relevance. These documents include Mori et al., U.S. Patent 6,044,363 (hereinafter Mori) and a publication entitled "Autodaq Creates Online Marketplace For Used Auto Industry" (hereinafter Autodaq). The International Search Report (ISR), issued by the ISA, has categorized each the above documents as "X", which indicates "a document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone".

(E) DETAILED DISCUSSION OF THE REFERENCES

General Discussion of the Prior Art

A number of Internet-based auction facilities have recently become available to the public. Through such facilities a seller may electronically enter information about a product or service for potential buyers to bid on.

While the services offered by the current Internet-based auction facilities work well for most bidders and sellers, there are several disadvantages. For example, many items in the Internet-based auction facility have at most a single bid pending during the specified auction time. The buyer that has made the sole bid must consequently wait, sometimes days, for the auction to end even though there are no other bidders to bid on the item.

In response to the above-described problem various auction sites have enabled buyers to buy a product while an auction is in progress. Nevertheless, this approach is not without problems and may result in a disappointed bidder. For example, a bidder may be participating in an auction that suddenly ends because a buyer makes an instant purchase. Some bidders have said that they feel like the auction was "taken" from them. Other bidders report a feeling of being "robbed".

Patent Application

A discussion of claim 1 follows. The other independent claims are distinguishable over the prior art for reasons similar to these set out below.

To anticipate a claim, a reference must teach every element of the claim.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 requires:

A method of facilitating an electronic transaction, the method comprising:

presenting, via a first computer system, both an auction purchase process and a fixed-price purchase process for purchase of an offering to a buyer; and

responsive to receipt of a bid from the buyer as part of the auction purchase process, removing presentation of the fixed-price purchase process.

Autodaq

Autodaq fails to disclose removing a presentation of a fixed-price purchase process responsive to receipt of a bid from a buyer, the bid being part of an auction purchase process. Autodaq discloses an Internet trading marketplace that provides buyers with two options for purchasing vehicles: buying and bidding. Buyers have access to an extensive online inventory of used vehicles with options for buying, bidding, notification, reporting, shipping and delivery; however, Autodaq does not disclose the removal of a presentation of a fixed-price purchase process, much less a removal that is responsive to receipt of a bid from a buyer.

Autodaq does disclose that a buyer may, by paying a flat price (e.g., buying), immediately remove a vehicle from auction (Autodaq, paragraph 13). However, claim 1 does not require removing a vehicle from auction; but rather, removing a presentation of a fixed-price purchase process. Clearly removing a presentation of a fixed-price purchase process is not the same as removal of a vehicle from an auction. Autodaq simply does not disclose removing a presentation of a fixed-price purchase process responsive to receipt of a bid from a buyer, as required by claim 1.

Thus, the limitations of claim 1 are not disclosed in Autodaq. It follows that claim 1 is novel and not anticipated by Autodaq.

Mori

Mori fails to disclose removing a presentation of a fixed-price purchase process responsive to receipt of a bid from a buyer, the bid being part of an auction purchase process. Mori discloses an automatic auction method that enables bidders to leave their respective auction terminals while an auction is in process. More specifically, Mori discloses an inventory, offered for sale by a seller, that may be automatically auctioned to one or more "purchasing persons" each of which specify a "rule list" from their respective auction terminals. Indeed, Mori is solely focused on an automatic auction method as the title of Mori suggests and does not disclose a fixed-price purchase process, much less the removal of a presentation of a fixed-price purchase process, and much less a removal that is responsive to receipt of a bid from a buyer

Thus, the limitations of claim 1 are not disclosed in Mori. It follows that claim 1 is novel and not anticipated by Mori.

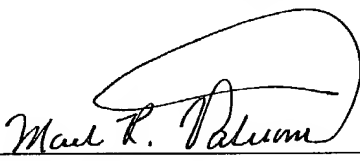
In view of the above remarks, the application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the application, the Examiner is invited to call the undersigned attorney at (408) 947-8200 ext. 204.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 6/23, 2004

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025
(408) 947-8200



Mark R. Vatuone
Reg. No. 53,719

Fults, Richard

From: Roberts, Ginger (ASRC)
Sent: Tuesday, December 04, 2001 3:18 PM
To: Fults, Richard
Subject: AutoDaq

?t 00172853/7

00172853/7
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00172853 20000117017B1219 (THIS IS THE FULLTEXT)
Autodaq Creates Online Marketplace For Used Auto Industry
Business Wire
Monday, January 17, 2000 09:07 EST
WORD COUNT: 945

TEXT:
SAN MATEO, Calif., Jan 17, 2000 (BUSINESS WIRE) - Silicon Valley-Based Startup
Moves \$93 Billion
Used Auto Auction Market to the Internet

The used automobile industry took a giant leap online today with the launch of Autodaq, a San Mateo, Calif.-based automotive e-commerce company that has created an Internet trading marketplace with a dramatic new level of efficiency for businesses that buy and sell used vehicles.

Autodaq (www.autodaq.com) is the online "hub" serving dealerships and other businesses that traditionally buy and sell used vehicles primarily through physical automobile auctions - a \$93 billion market wrought with inefficiencies. The company, which was founded by a foursome with a collective diverse background in automotive, finance and high technology, is financially backed by August Capital, represented by David F. Marquardt, an experienced venture investor with many notable successes such as Microsoft, Sun, Tumbleweed and Cobalt Networks.

"The traditional method by which these businesses buy and sell used vehicles today is highly fragmented, inefficient and, thus, unnecessarily costly for both buyers and sellers," Autodaq CEO, President and co-founder Adam Boyden said. "We have created a Web-based marketplace that greatly increases the number of buyers and sellers participating in a virtual auction to improve the bottom line for all participants."

The total cost for completing a vehicle sale through the physical auction process currently represents approximately 10 percent of the automobile's value, nearly \$10 billion annually. Costs include but are not limited to: cost of capital, depreciation, transportation of the vehicle, auction fees, reconditioning and search costs.

Autodaq's technology and related services are designed to eliminate up

to 50 percent of those supply chain costs, or about \$5 billion annually. Autodaq's full suite of Internet-based offerings include proprietary auction functionality and facilitation of transportation, inspection, title processing, single-point viewing and access to more extensive, granular information.

Sellers - financial institutions, manufacturers and other fleet, lease and rental operators - increase profitability and ROI by gaining access to a larger buyer pool capable of bidding on each vehicle; selling vehicles more quickly, thus reducing depreciation and freeing up capital, creating efficiencies in reconditioning, detailing and transportation costs. Major sellers currently doing business through Autodaq include Bank One and World Omni Financial Corp.

Buyers - franchised, independent and Internet-based dealers, and wholesalers - increase profitability by gaining real-time access to an extensive online inventory of used vehicles, as well as the option of **instant buying ("Click and Buy")** and/or bidding, notification when desired vehicles become available, instantaneous reporting and shipping and delivery.

"Part of Autodaq's focus is the dealer community," Boyden said. "Autodaq presents an avenue by which dealers can embrace the Internet and use it to their advantage, lowering the costs of attaining the high-quality used vehicles their customers most desire."

Bank One, which has partnered with Autodaq in development and pilot testing, already is benefiting from the service.

"So far, we have seen a gain of several hundred dollars per off-lease vehicle that we sell through Autodaq," said Keith Kendrick, president of Bank One's eCommerce unit. "That's mostly because of lower transportation and auction costs and a faster sale that reduces capital and inventory costs. We also have seen better sales prices. We expect that to continue as Autodaq's online auction grows, because many more buyers will view and bid on our inventory than can do so at a physical auction."

"Dealers who have bought our vehicles through Autodaq say they love the system. It's a win-win for us and our dealers."

Autodaq is Web-based, meaning that customers only need Internet access to connect to the site; no additional software or hardware is required. Autodaq provides a "biography" of each vehicle based on detailed configuration and condition information, including all options gathered by recognized independent inspection companies. Photographs of vehicles can also be placed online.

Buyers have two options for purchasing vehicles, both of which are available 24 hours a day: buying with a simple click or submitting a bid. Through Autodaq's proprietary "Click & Buy" function, buyers can obtain a vehicle by paying a flat price set by the seller, thus immediately removing that vehicle from auction. Buyers also can bid on vehicles. The minimum escalation bid is \$100 and bidders can monitor each auction in real time throughout the day, increasing their bid at will. The winner of each auction is notified when the auction closes at 8 p.m. PT daily.

Unlike traditional auto auctions and online marketplaces, Autodaq is not a matching service. Included in Autodaq's full service offering, transportation prices are listed on the site on a vehicle-by-vehicle basis and delivery is arranged by Autodaq after the vehicle is purchased. Vehicles sold through Autodaq are transported directly to the dealer. Delivery of title and other official documents occur separately following receipt of payment.

"This is one of the most compelling business models I've seen, and I've seen a few," August Capital's Marquardt said. "Autodaq is a winner."

Founded in July 1999, San Mateo, Calif.-based Autodaq (www.autodaq.com) is transforming the used automobile industry by establishing an Internet marketplace with a dramatic new level of efficiency for businesses that buy and sell used vehicles. Autodaq provides online services and technologies that significantly reduce costs while increasing profitability by eliminating chronic inefficiencies for financial institutions, manufacturers and other fleet, lease and rental operators, and franchised, independent and Internet-based auto dealers and wholesalers. Autodaq is a privately held company; its investors include August Capital, Zilkha Ventures and several angel investors from the Internet and automotive industries.

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Jack Farmer, 314/982-8630
or
Brian Baker, 415/356-1003

GEOGRAPHY: CALIFORNIA

INDUSTRY CODE: AUTOMOTIVE
INTERNET
E-COMMERCE

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